

The Chairman, Christopher Fejes called the meeting to order at 7:30 P.M., on Tuesday, February 19, 2002.

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
Michael Hutson
Matthew Kovacs
Mark Maxwell
Cindy Pennington

Also Present: Mark Stimac
Bob Davisson
Pam Pasternak

ITEM #1 – APPROVAL OF MINUTES OF MEETING OF JANUARY 15, 2002

Motion by Kovacs
Supported by Gies

MOVED, to approve the minutes of the meeting of January 15, 2002 as written.

Yeas: 6 – Courtney, Fejes, Gies, Hutson, Kovacs, Maxwell
Abstain: 1 - Pennington

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – RENEWAL REQUESTED. MADEIRA WOODWORKING, 2707

AMERICAN, for relief of the 6' high masonry-screening wall required along the north property line.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for the 6' high masonry-screening wall required along the north property line of their site, which abuts residential zoning. This Board has granted this relief since 1990, primarily due to the fact that a wall would be located in the flood way of the Spencer Drain and does not allow for the construction of structures. In February 1999 this renewal was granted for a period of three (3) years. Conditions remain the same and we have no complaints or objections on file.

Mr. Michael Shanker, owner of the property was present and stated that they have cleaned up the area and added more landscaping to make it look more appealing. Mr. Shanker also said that they are unable to put up a wall due to the fact that the property is located in a flood way, and the construction of structures is not allowed.

Mr. Courtney asked Mr. Stimac about the difference between a flood plain and a flood way. Mr. Stimac stated that you can build and maintain a structure in a flood plain with the appropriate permits, however, a flood way has to remain open and that is why no construction is allowed on it. Mr. Stimac also said that if the Spencer Drain were to be enclosed the flood way may be eliminated and construction would be allowed at that time.

ITEM #2 – con't.

Motion by Courtney

Supported by Maxwell

MOVED, to grant Michael Shanker Properties, 2707 American, a permanent variance for relief of the 6' high masonry-screening wall required along the north property line.

- This variance will remain in effect as long as the Spencer Drain exists.
- This variance will expire if the flood-way is eliminated.
- This variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT PERMANENT VARIANCE CARRIED

ITEM #3 – RENEWAL REQUESTED. CITY OF TROY, 2300 W. BIG BEAVER ROAD, for relief of the 6' high masonry-screening wall required along the north property line.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board for the 6' high masonry-screening wall required along the north property line, which abuts residential zoned property. This relief has been granted on a yearly basis since 1974 due to the fact that the adjacent property is used as a detention pond. In February 1999, this Board granted a three (3)-year renewal of this variance. The City of Troy has recently purchased this property as part of a potential expansion of the adjacent fire station site. We have no complaints or objections on file.

Ms. Larysa Figol, City of Troy Real Estate & Development Department, was present and stated she had nothing to add.

Motion by Courtney

Supported by Maxwell

MOVED, to grant the City of Troy, 2300 W. Big Beaver Road, a permanent variance for relief of the 6' high masonry-screening wall required along the north property line.

- Variance will stay in effect as long as the detention pond remains.
- Variance will expire if the detention pond is eliminated.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

Yeas: All – 7

MOTION TO GRANT A PERMANENT VARIANCE CARRIED

ITEM #4 – RENEWAL REQUESTED. NINO SALVAGGIO INVESTMENT COMPANY OF TROY, 6835 ROCHESTER ROAD, for relief to maintain a 6' high landscaped berm in lieu of the 6' high masonry-screening wall required along the south and west sides of the property.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board to provide landscaped berms in place of the 6' high masonry-screening wall required along the south property line and the west boundary line. This relief has been granted on a yearly basis since 1995. This item last appeared before the Board at the February 1999 meeting and was granted a three (3)-year renewal. Conditions remain the same and we have no objections or complaints on file.

Mr. Stimac also explained that presently the property to the west has been approved for the development of a 50 plus townhouse community and a site plan has been approved on the property to the south for development. Mr. Stimac said that the new development on the property to the south will have to add additional screening. Mr. Stimac also stated that he felt that the construction would probably be done sometime in 2003.

Mr. Terry Ross, Store Manager, was present and stated that he had nothing to add.

Motion by Courtney
Supported by Gies

MOVED, to grant Nino Salvaggio Investment Company of Troy, 6835 Rochester Road, relief to maintain a 6' high landscaped berm in lieu of the 6' high masonry-screening wall required along the south and west sides of the property.

- A three-year variance will allow new construction on the adjacent property to be completed.
- A three-year renewal will allow new residents an opportunity to review this berm.
- This variance is not contrary to public interest.
- The variance will not have an adverse effect on surrounding property.

Yeas: All – 7

MOTION TO GRANT RENEWAL OF VARIANCE FOR THREE (3)-YEARS CARRIED

ITEM #5 – VARIANCE REQUESTED. STEVEN NOVOSEL, 2225 VERMONT, for relief to place a temporary storage box and to store a recreational trailer in the front yard of a residential property.

Mr. Stimac explained that the petitioner is requesting relief to place a temporary storage box and a recreational trailer at 2225 Vermont. The site plan submitted indicates the placement of an 8' x 40' storage box in the rear yard to be used for storage of personal equipment and materials during the construction of a new home on the adjacent

ITEM #5 – con't.

property. Section 43.80.00 of the Zoning Ordinance requires Board of Zoning Appeals approval for the placement of a temporary structure.

In addition, the petitioner is requesting relief to park an 8' x 40' recreation trailer on the driveway in front of the house during the construction project. Section 40.65.02 prohibits the storage of recreational vehicles in the front yard.

Mr. Steven Novosel was present and stated that his family has lived in Troy for more than 50 years. Mr. Novosel stated that he had spoken to his neighbors and explained that both of his requests were for a temporary period only. Mr. Novosel said that he would need these variances for a period from April through December. Mr. Novosel further stated that his builder had guaranteed him that the new construction would be done in this time frame. Mr. Novosel brought in a letter from his neighbors, showing their support.

Mr. Courtney asked Mr. Novosel about the recreational trailer and Mr. Novosel explained that when construction is complete the trailer will go in an area at the back of the house. Mr. Novosel also informed the Board that he has had this trailer for at least three (3) years and has not had anyone complain about it. Mr. Novosel explained that he uses this trailer to haul a racecar around from Thursday to Sunday beginning in April and going through September and also to store parts that he needs to keep his car running.

Mr. Hutson stated that he did not feel the Zoning Ordinance covered the parking of a recreational trailer on residential property. Mr. Davison stated that the Board can grant a request to store a recreational trailer on residential property, and Mr. Hutson expressed concern over the fact that he did not think this applied to a temporary situation. Mr. Stimac stated that Section 43.80.00, grants the Board additional powers and he believes that the approval of the temporary storage of a recreational trailer would fall into this category. Mr. Stimac explained that the Board can grant the temporary use of a structure for a period not to exceed two years. Mr. Hutson stated that he felt that this provision would cover the storage container and not the recreational vehicle. Mr. Stimac also went on to say that Section 40.65.02 prohibits the storage of recreational vehicles in the front yard. Mr. Stimac explained that although the storage of a recreational vehicle is something that is granted to all property owners, the location of the trailer becomes the criteria. Mr. Hutson questioned whether the powers granted to the Board would allow for the approval of the storage of the trailer in the front yard.

After further discussion, Mr. Courtney suggested that each request be considered separately, as he wished the Legal Department to look into the wording of the Ordinance.

Mr. Kovacs asked what Mr. Novosel would do if his request for the storage of the trailer were not granted, and Mr. Novosel stated that no matter where he parked this trailer, it

ITEM #5 – con't.

would still be in the front of the house. Mr. Novosel also stated that he removes the trailer from Thursday through Sunday, as that is when he is at the car races.

Ms. Pennington asked if the trailer could be put at the back of the property, and Mr. Novosel stated that the ground is too soft to move the trailer back there.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are ten (10) written approvals on file. There are two (2) written objections on file.

Motion by Hutson
Supported by Courtney

MOVED, to grant Steven Novosel, 2225 Vermont, relief of the Ordinance for the temporary placement of a storage box.

- Temporary placement will be in effect from April 1, 2002 through November 30, 2002.
- This request will not have an adverse effect on surrounding property.
- This request applies to this property only.

Yeas: All – 7

MOTION TO GRANT TEMPORARY PLACEMENT OF A STORAGE BOX GRANTED

Motion by Courtney
Supported by Gies

MOVED, to deny the request of Steven Novosel, 2225 Vermont, for relief to store a recreational vehicle in the front setback.

- This request would be contrary to public interest.
- Petitioner did not demonstrate a hardship.

Yeas: 2 – Fejes, Kovacs
Nays: 3 -- Pennington, Courtney, Gies
Abstain: 2 – Hutson, Maxwell

MOTION TO DENY FAILS

Motion by Courtney
Supported by Maxwell

ITEM #5 – con't.

MOVED, to table the request of Steven Novosel, 2225 Vermont, for relief to temporarily store a recreation vehicle in the front setback of his property until the meeting of March 19, 2002.

- Tabling will allow the Legal Department to determine if this request falls under the jurisdiction of the Board of Zoning Appeals.

Yeas: 5 – Courtney, Gies, Hutson, Maxwell, Pennington

Nays: 2 – Fejes, Kovacs

MOTION TO TABLE THIS REQUEST UNTIL THE MEETING OF MARCH 19, 2002
CARRIED

ITEM #6 – VARIANCE REQUESTED. CORDELL CRAIG, 366. W. MAPLE

(PROPOSED ADDRESS), for relief to construct a car wash with a zero foot side yard setback adjacent to Industrial Zoning where a 10-foot side yard is required.

Mr. Stimac explained that the petitioner is requesting relief to construct a car wash in the H-S (Highway Service) Zoning District. The property immediately to the west is located within the M-1 (Light Industrial) Zoning District. The site plan submitted indicates a zero foot setback from the proposed building to the west property line. Paragraph E of Section 31.30.00 states that when a H-S District abuts an M-1 District a minimum 10-foot side yard setback be provided on the H-S site. Mr. Stimac also stated that the petitioner had the property recently re-zoned to H-S (Highway Service).

Mr. Cordell Craig was present and explained that this would be a tunnel wash, which would wash the outside of the vehicle only. Mr. Craig also handed out a site plan showing the location of the car wash on the east side of the property in compliance with the ordinance. Mr. Craig explained that if the car wash were constructed on the east side of the property, a variance would not be required, however, it has been determined that this design would create a serious traffic hazard. Mr. Craig brought in pictures of the property immediately to the west owned by Thunderbird Lanes, which show that this area is not maintained.

Mr. Maxwell asked about the location of the car wash on the east side of the property and Mr. Stimac explained that the proper layout for a car wash creates a counter clockwise traffic flow. The location of the car wash on the east side would create a serious traffic flow problem.

Mr. Craig stated that the County Road Commission would not approve this eastern location because they feel it would be too dangerous. Mr. Maxwell asked why there is two-way traffic. Mr. Craig stated that one lane is considered an escape lane. Mr. Maxwell asked how large the driveway would be and Mr. Craig stated that the apron would be 60'.

ITEM #6 – con't.

Mr. Courtney asked if the building could be moved farther back on the site and then placed on the east side. Mr. Craig stated that this was feasible, however, there would not be as much stacking room available. Mr. Maxwell expressed concern over the fact that he thought this plan may create a problem for vehicles entering and exiting the location, and stated that he would like to see some sort of division separating this flow of traffic. Mr. Craig stated that they plan to have arrows as well as signs to direct traffic. Mr. Craig stated that the car wash on the west side of the property would not create as large a traffic problem. Mr. Craig went on to say that they are attempting to make it as easily accessible as possible.

Mr. Courtney expressed concern over the size of the driveway, due to the fact that it would be 22' wide. Mr. Craig stated that the City requires a 5' sidewalk and the actual curb cut would be 60' wide. Mr. Craig also said that they are planning to have a 27' wide driveway and the widest they can make the mouth of the driveway is 60'. Mr. Kovacs asked what the minimum curb cut was and Mr. Stimac replied that it is 30'. Mr. Stimac also explained that the Engineering Design Standards propose that the width of the driveway where it crosses the property line has to be 30', however, Chapter 33 of the City Ordinance limits curb cuts to no more than 45% of the lot width. Based upon the 60-foot lot width, the curb cut cannot be more than 27'.

The Chairman opened the Public Hearing.

Ms. Moore, the Attorney for Thunderbird Lanes was present and stated that her client objected to this variance request. Ms. Moore said that the reason they object, is because this building would be right on the property line, therefore, their property would be the most affected. Ms. Moore expressed concern over the fact that traffic would increase, as well as the effect construction vehicles would have on their property. Ms. Moore also stated that they are concerned about any work that would have to be done if a water main broke. Ms. Moore also stated that they planned to have their property cleaned up within a week and that they would rather see this car wash constructed on the east side of the site.

No one else wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Mr. Courtney asked if it would be possible to move the building approximately 4' to 5' to the east, which would allow for some type of setback. Mr. Stimac stated that he thought this could be done and Mr. Craig stated that he did not see a large problem with this suggestion. Mr. Craig expressed concern about the amount of landscaping which would be required.

Motion by Courtney
Supported by Maxwell

ITEM #6 – con't.

MOVED, to grant Cordell Craig, 366 W. Maple (proposed address) relief of the Ordinance to construct a car wash.

- Building is to be constructed 5' from the property line.
- Drive will be constructed a minimum of 27' wide from the point of the exit of the carwash to the curb cut.
- Changing the location of the building from the west side of the site to the east side would create a dangerous situation.
- This variance is not contrary to public interest.
- This variance will not have an adverse effect to surrounding property.

Yeas: 6 – Courtney, Fejes, Gies, Kovacs, Maxwell, Pennington

Nays: 1 – Hutson

MOTION TO GRANT VARIANCE WITH A 5' SETBACK CARRIED

ITEM #7 – VARIANCE REQUESTED. RICHARD MERGEL, 3257 WENDOVER, for relief to have a 34.4-foot front yard setback where 40 foot is required in the R-1B zoning District to construct a covered front porch addition.

Mr. Stimac explained that the petitioner is requesting relief of the front yard setback to construct a covered front porch addition. The site plan submitted indicates that the proposed addition will result in a front yard setback of 34.4 feet. Section 30.10.02 of the Zoning Ordinance requires a 40 foot minimum front yard setback in the R-1B Zoning District.

Chris Morgan, the designer of this addition was present and stated that presently the home has a second floor balcony which is in a state of disrepair. Mr. Morgan went on to say that they wished to renovate the exterior of the home and eliminate this balcony. Mr. Morgan stated that this would add to the curb appeal of this home, as well as give the family a much need closet and foyer.

The Chairman opened the Public Hearing.

Jane Nikolas, 3204 Wendover, was present and stated that she objects to this request, as she believes the home is quite beautiful and this addition may make it appear to be a "big foot" house.

No one else wished to be heard and the Public Hearing was closed.

There are three (3) written approvals on file. There are no written approvals on file.

Motion by Hutson

Supported by Pennington

ITEM #7 – con't.

MOVED, to grant Richard Mergel, 3257 Wendover, relief to have a 34.4-foot front yard setback where 40 foot is required in the R-1B Zoning District to construct a covered front porch addition.

- Variance is not contrary to public interest.
- Conformance would be unnecessarily burdensome.
- Variance will not have an adverse effect on surrounding property.
- Variance will not establish a prohibited use in this Zoning District.

Yeas: All – 7

MOTION TO GRANT VARIANCE REQUEST CARRIED

ITEM #8 – VARIANCE REQUESTED. AMERICAN TOWER CORPORATION, 991 BADDER, for relief to have a 29 foot front yard setback where 50 foot is required in the M-1 Zoning District to install an equipment building and fence enclosure.

Mr. Stimac explained that the petitioner is requesting relief of the front yard setback to install an equipment building and fence enclosure. Section 30.20.09 of the Zoning Ordinance requires a minimum 50' front setback in the M-1 (Light Industrial) Zoning District. The site plan submitted indicates that the equipment building will be located 30 feet from the front property line and the fence enclosure will be 29 feet from the front property line along Badder.

Mr. Maxwell expressed concern over the fact that he feels that the present fence enclosure is extremely close to the street. Mr. Stimac explained that Badder is only 30' wide and the right of way is right at the curb line.

Todd Wells and Mark Morris of Nextel were present and stated that they are the carrier that wished to place their equipment at this site. Mr. Wells stated that they wished to re-locate the existing equipment building and put the fence enclosure around it, which will result in a 29-foot setback from Badder. Mr. Wells also stated that they plan to add additional landscaping to make the site more attractive.

Mr. Courtney asked if the petitioner would stack the equipment if the variance were to be denied, and the petitioner replied that they would have to look into the feasibility of this. Mr. Hutson asked if the new fence enclosure would stick out further than the building which is located directly east of this site, and the petitioner stated that it would not stick out any further.

Mr. Maxwell stated that an objection had been turned in which stated that the noise from the motors was extremely loud. Mr. Wells said that there is an air-conditioner used for cooling was there but he thought it could be relocated to the north side of the property.

The Chairman opened the Public Hearing.

ITEM #8 – con't.

Mr. Don Massey, 1005 Key West Drive, Clawson, was present and stated that he objects to this request due to the noise from this site as well as other sites in the area. Mr. Massey stated that it is difficult to rest and creates a dangerous situation when you travel.

Mr. Kovacs asked if Mr. Massey would approve of the variance, if the Board were to stipulate that conditions would have to be made to make sure the noise level did not increase. Mr. Massey replied that there would be more equipment added, and he did not see how the noise could be regulated. He was still opposed to this request.

No one else wished to be heard and the Public Hearing was closed.

There are three (3) written objections on file. There are two (2) written approvals on file.

Motion by Maxwell
Supported by Gies

MOVED, to deny the request of American Tower Corporation for relief of the front yard setback to install an equipment building and fence enclosure.

- Variance request is excessive.
- This variance would have an adverse effect on surrounding property.
- This variance is contrary to public interest.

Yeas: 6 – Gies, Hutson, Kovacs, Maxwell, Pennington, Fejes
Nays: 1 – Courtney

MOTION TO DENY REQUEST CARRIED

Mrs. Gies stated that she thought she should be excused from hearing the next item due to the fact that she had sold a home to Mr. Robert Farran. Mr. Davisson stated that he did not believe this created a conflict of interest due to the fact that she was not working with Mr. Farran at the present time.

Motion by Pennington
Supported by Maxwell

MOVED, to excuse Mrs. Gies from hearing Item #9.

Yeas: None
Nays: 7 – All

MOTION TO EXCUSE MRS. GIES FAILS

ITEM #9 – VARIANCE REQUESTED. ROBERT FARRAN, 108 MACLYNN, for relief to have a 40 foot rear yard setback where a 45 foot rear yard is required in the R-1B Zoning District to construct a master bedroom addition.

Mr. Stimac explained that the petitioner is requesting relief of the rear yard setback to construct a master bedroom addition. The site plan submitted indicates the proposed addition would result in a 40' rear yard setback. Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District.

Mr. Farran was present and stated that he suffers from multiple sclerosis and his condition requires that he use a wheel chair. Mr. Farran stated that he is able to presently maneuver in his bathroom, but finds that the turning radius is very tight. Mr. Farran stated that he wished to have this variance to make his life a little easier.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are nine (9) written approvals on file. There are no written objections on file.

Motion by Pennington
Supported by Courtney

MOVED, to grant Mr. Robert Farran, 108 Maclynn relief of the Ordinance to construct a master bedroom addition that would result in a 40' rear yard setback where a 45' minimum rear yard setback is required.

- Variance is not contrary to public interest.
- Variance would not have an adverse effect on surrounding property.
- Conformance is unnecessarily burdensome.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #10 – VARIANCE REQUESTED. JOSEPH MANIACI, OF CHERRY CREEK, LLC. 3911 FINCH (PROPOSED ADDRESS), for relief to have a 40.5 foot rear yard where 45 foot is required in the R-1B Zoning District to construct a new single-family residence.

Mr. Stimac explained that the petitioner is requesting relief of the rear yard setback to construct a single-family residence. The site plan submitted indicates that the first floor of the proposed house would be located 42 feet from the rear property line and that the second floor of the house projects out another 1.5 feet resulting in a 40.5' setback to the rear property line. Section 30.10.02 of the Zoning Ordinance requires a 45' minimum rear yard setback in the R-1B Zoning District.

ITEM #10 – con't.

Mr. Maniaci was present and stated that he has done several developments in Troy and due to the fact that this lot is only 118' deep, it is difficult to find a home to build here which would appeal to a new resident. Mr. Maniaci went on to say that the proposed home would only take up 13% of the lot. Mr. Maniaci further stated that the property behind this site is going to be part of the new wetlands; therefore no construction will take place behind this home.

Mr. Hutson expressed concern over the fact that there are two existing ranch homes on either side of this lot, and he felt that perhaps a colonial would be over building the area. Mr. Hutson also stated that a ranch style home could be built without a variance. Mr. Maniaci stated that he could put in a narrow style ranch home, but did not feel that this type of home is what people moving into Troy are looking for.

Mr. Fejes asked what Mr. Maniaci would do if his request was denied, and Mr. Maniaci replied that he had another colonial type of home that he could build in this area. Mr. Fejes stated that it is difficult to grant a variance for a home that has not been built, when there are already existing homes in the area.

Mr. Kovacs asked if a person would be able to add on to this home if this variance were granted, and Mr. Maniaci replied that he thought they would be able to add on to the great room.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written objection on file. There are no written approvals on file.

Motion by Courtney
Supported by Gies

MOVED, to deny the request of Joseph Maniaci, of Cherry Creek LLC, 3911 Finch (proposed address) for relief to have a 40.5 foot rear yard setback where 45 feet is required in the R-1B Zoning District to construct a new single family residence.

- Petitioner did not demonstrate a hardship.
- Variance would be contrary to public interest.
- Variance causes an adverse effect to properties in the immediate vicinity.

Yeas: 5 – Courtney, Fejes, Gies, Hutson, Kovacs
Nays: 2 – Maxwell, Pennington

MOTION TO DENY REQUEST CARRIED

The Board of Zoning Appeals meeting adjourned at 10:13 P.M.
MS/pp